

**Screening Information for Consideration of Categorical
Exclusion for NEPA Review Purposes
Programmatic Safe Harbor Agreement
And
Candidate Conservation Agreement with Assurances
Within the Upper Little Red River Watershed in Arkansas
January 2007**

I. Project Information

A. Project name:

The U.S. Fish and Wildlife Service's (FWS or USFWS) Conway Arkansas Field Office has collaborated with the Natural Resources Conservation Service (NRCS), Arkansas Game and Fish Commission (AGFC), and The Nature Conservancy (TNC) (collectively the Parties) to prepare an application for an Enhancement of Survival Permit (Permit) associated with implementation of the "Programmatic Safe Harbor Agreement and Programmatic Candidate Conservation Agreement with Assurances for the Speckled Pocketbook and Yellowcheek Darter in the upper Little Red River, Arkansas" (Agreement). The Agreement proposes to address the conservation needs of the endangered speckled pocketbook (SPB), *Lampsilis streckeri*, and the yellowcheek darter (YCD), *Etheostoma moorei* -- a federally designated candidate species (collectively the covered species). The Agreement will focus on non-Federal lands in a designated geographic area of the upper Little Red River watershed of Arkansas.

The Agreement contains two distinct components: a Safe Harbor Agreement (SHA) program for the endangered SPB and a Candidate Conservation Agreement with Assurances (CCAA) program for the YCD. As part of the approval of the Agreement, the FWS would authorize the incidental take of the covered species using the authority of section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA). The incidental take authority for the YCD would not apply, however, unless the species was federally-listed. The FWS also evaluated the approval of the Agreement under section 7 of the ESA.

B. Project size:

The Agreement would encompass the upper Little Red River watershed (approximately 558,615 acres). The focus will be on non-Federal properties adjacent to the forks of the Little Red River that have suitable habitat for the covered species. Such habitat includes stream reaches where water persists throughout the year (e.g., Archey, Middle, South, and Devils [including Turkey and Beech] Forks). These lands occur in and around the cities of Clinton, Shirley, and Leslie, Arkansas.

C. Brief project description:

The Parties to the Agreement propose to work within the above-referenced watershed and offer technical and other assistance to eligible landowners interested in voluntarily implementing and/or maintaining identified conservation actions on their property that are expected to improve the statuses of either of the covered species and/or their habitat.

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The Parties will enroll landowners under the Agreement using a specific step-down instrument called a Property Owner Management Agreement (POMA). At the point upon which the landowner is enrolled under the terms of the POMA, that landowner become a Cooperator for purposes of obtaining the regulatory assurances and incidental take authority of the Permit via a Certificate of Inclusion. The expected term of each POMA will be approximately 30 years.

The Parties expect that sufficient interest exists among landowners within the watershed such that the Agreement will achieve the respective regulatory standards of the ESA. Specifically, both the SHA standard¹ for the endangered SPB and the CCAA standard² for the candidate YCD are expected to be achieved through application of a similar set of conservation and management actions such as: 1) control livestock access to streams through fencing and alternative water sources, 2) protect, enhance, or restore terrestrial habitats through easements, riparian buffer establishment and maintenance, installation of erosion control measures, and foregoing detrimental land use practices, 3) protect, enhance, or restore aquatic habitats through easements, stream de-channelization, installation of instream habitat features, streambank stabilization, and road crossing stabilization, 4) allow covered species reintroductions, and/or 5) biological monitoring and any additional conservation measures deemed necessary and appropriate by Parties to the Agreement.

The net effects of the Agreement will be to increase the amount of habitat available to the covered species, increase the number and distribution of the covered species, improve water quality conditions (benefiting both of these aquatic species), and/or increase the ability of the Parties to monitor the species' response to the habitat and water quality improvements.

II. Do any of the exceptions to categorical exclusions apply to this project? (from 516 DM 2.3, Appendix 2) [If the answer is yes to any of the questions below, the project cannot be categorically excluded from NEPA.] Each "No" must be accompanied by an explanation.

Would issuance of the Permit and approval of the Agreement:

A. Have significant adverse effects on public health or safety?

No. Management to enhance either of the covered species' habitats will decrease sedimentation and erosion, limit cattle access to streams, and otherwise serve to improve

¹ The Final Safe Harbor Policy is found at 64 FR 32717 and is also explained in Part 4 of the Agreement.

² The Final CCAA Policy is found at 64 FR 32726 and is also explained in Part 4 of the Agreement.

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water quality in the headwater streams of Greers Ferry Reservoir (a major drinking water source and within the focus area of the Agreement). Standard stream restoration and buffer zone management methods widely employed by conservation professionals and landowners do not have adverse effects on public health and safety.

B. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks?

No. No unique historic or cultural resources, parks, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically critical areas including those listed on the National Register of Natural Landmarks in the upper Little Red River watershed will be adversely affected by the proposed activities undertaken as part of this Agreement.

C. Have highly controversial environmental effects?

No. The proposed issuance of the Permit and approval of the Agreement is not likely to result in highly controversial environmental issues. Each Cooperator would agree to manage his/her enrolled property to achieve the expected regulatory standards under either the CCAA and/or SHA programs. The expected benefits will be positive to the covered species as well as to other environmental values. These habitat enhancements will involve standard streamside management practices such as streambank stabilization, revegetation, and fencing of livestock. The implementation of other types of enhancements would result in less intensive forest management, as compared to current management, by allowing trees to grow larger and older before harvest. At the end of the term of a Cooperator's POMA, the Cooperator could revert to management methods employed prior to enrollment in the Agreement (which were not controversial).

D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?

No. The stream restoration and management methods to restore and enhance habitat for either species represent proven techniques. These practices will not have highly uncertain and potentially significant environmental effects or pose unique or unknown environmental risks.

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E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?

No. The proposed issuance of the Permit would not establish a precedent for future actions or represent a decision in principle about future actions with potentially significant environmental effects. Issuance of any enhancement of survival permit is done on a case-by-case basis pursuant to the ESA and the FWS' governing regulations and policy standards. As a result, individual actions do not necessarily influence future decisions that may have significant environmental effects.

F. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects?

No. The proposed issuance of the Permit is not related to other individually insignificant actions that would cumulatively cause significant environmental effects.

G. Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places?

No. The FWS has determined that the overall Agreement does not meet the definition of an "undertaking" as defined in 36 CFR 800, since the Agreement is concerned with future actions that have not yet occurred.

In addition, the proposed conservation measures are the type of actions that alone are unlikely to affect any cultural resources that may be present on a specific Cooperator's property. Past review and field evaluations of the type of conservation measures proposed under the Agreement indicate that it is reasonable to assume that cultural resources will not be affected by implementation of the measures.

The FWS will be available to offer technical and other assistance to the other Parties or any Cooperator on a project-by-project evaluation should any conservation measure be planned that will require significant soil disturbance or the removal of a structure or building 50 years or older.

H. Have adverse effects on listed or proposed species, or have adverse effects on designated Critical Habitat for these species?

No. No adverse effects will occur. The purpose of the Agreement is to obtain conservation benefits for the covered species. A Cooperator would be provided regulatory assurances through the Permit and the Cooperator's Certificate of Inclusion

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that would allow, under certain conditions, a level of incidental take consistent with the applicable CCAA and/or SHA standard. The SHA component of the Agreement will provide a net conservation benefit to the SPB. The CCAA component of the Agreement will provide a level of conservation benefit that would likely preclude the need to list the YCD.

Surveys for other federally listed species will not be required of the Cooperators as a condition to participating in the Agreement. However, neither regulatory assurance nor incidental take authorizations will be conveyed to Cooperators for any federally listed animal not identified in their Certificate of Inclusion or the Permit. No other listed species are expected to be adversely affected by implementation of this action. Should other federally listed species be discovered, then the Parties will seek cooperative and comprehensive solutions with the affected Cooperator(s) to tailor his/her management actions which avoid take and/or minimize any disturbance of these species.

It is important to note that the incidental take authorizations and assurances for the YCD become effective at the time the species is listed pursuant to the FWS' authority under the ESA. This may or may not occur during the life of the Agreement and Permit. Further, this Agreement does not prevent FWS from utilizing its authorities to list the YCD, if necessary.

There is no critical habitat designated for any species in the upper Little Red River watershed; therefore none will be affected by this action.

We do not expect the conservation measures or actions envisioned by the Agreement to have adverse effects on any other listed or proposed species or designated critical habitat.

I. Have adverse effects on wetlands, floodplains or be considered a water development project thus requiring compliance with either Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act?

No. The proposed issuance of this Permit and approval of the Agreement would not result in adverse impacts to wetlands or other aquatic resources. All of the vegetative management and habitat enhancements under the Agreement will only serve to improve wetland or floodplain functions.

J. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment?

No. The proposed habitat, vegetation, and stream management activities to enhance and increase habitat for either species will be covered under the appropriate United States Army Corps of Engineers' nationwide permit and will be in compliance with all other

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Federal, State, local, and tribal laws and requirements.

III. Additional information requested for consideration of a categorical exclusion determination.

A. Extent of public involvement.

The FWS published a 30-day notice of availability of the proposed Agreement in the September 8, 2006, *Federal Register* (71 Federal Register 53129). In response, the FWS received one comment letter from a conservation entity (Environmental Defense or ED). ED supported the provisions and intent of the Agreement and offered one clarifying recommendation with respect to the method(s) upon which the baseline determinations for the Safe Harbor component of the Agreement and the description of existing conditions of the Candidate Conservation Agreement with Assurances component of the Agreement would be established and identified in each POMA. In response, the Parties have accepted the recommendations as stated by ED and have incorporated them into the final Agreement and associated documents.

B. Existing uses of lands within the area that will be covered under the Agreement and effects of the issuance of the Permit on these uses.

The primary existing use of property in the upper Little Red River Watershed is for the production of timber, livestock, poultry, and other agricultural uses. The probable net effect of implementation of the Agreement will be to facilitate the continuation of these lands uses without significant changes. Although land use will not likely change to more intensive uses, for example, the positive conservation practices will be deployed throughout the landscape by the enrolled landowners will provide benefits to water quality, general wildlife and fisheries values, as well as produce conservation value to the covered species. Moreover, even when and after a Cooperator ceases participation in the Agreement, we do not anticipate a material change in traditional land uses.

C. Effects on adjacent landowners.

Habitat for the covered species on properties adjacent to an enrolled property should not be adversely affected by the conservation measures implemented on the enrolled land. In fact, habitat on an adjacent property may also benefit from conservation measures implemented on enrolled lands due to the positive upstream and downstream effects of stream stabilization and riparian habitat management.

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IV. Conclusion:

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, we have established the following administrative record and have determined that the issuance of a section 10(a)(1)(A) Enhancement of Survival Permit (TE 138910 and TE 138911) associated with implementation of the "Programmatic Safe Harbor Agreement and Programmatic Candidate Conservation Agreement with Assurances for the Speckled Pocketbook and Yellowcheek Darter in the upper Little Red River, Arkansas" as proposed by the U. S. Fish and Wildlife Service, Arkansas Game and Fish Commission, Natural Resources Conservation Service, and The Nature Conservancy:

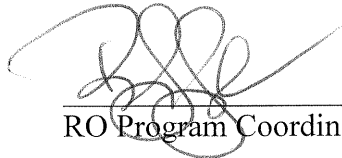
- X is a categorical exclusion as provided by 516 DM2, Appendix 1 and 516 DM 6, Appendix 1.4c(2). No further documentation will be made.
- is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.
- is found to have significant effects, and therefore a "Notice of Intent" will be published in the Federal Register announcing the decision to prepare an Environmental Impact Statement before the project is considered further.
- is not approved because of unacceptable environmental damage, or a violation of Fish and Wildlife Service mandates, policy, regulations, or procedures.
- is an emergency situation within the context of 40 CFR 1 506.11. Only those actions necessary to control the immediate impacts of the emergency will be taken. Other related actions remain subject to NEPA review.

Supporting Documents:


Biological Opinion, Set of Finding, Agreement, Enhancement of Survival Permit Application and associated supporting documents.


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Signature Approval:


RO Program Coordinator 1/4/07 Date


REC, Ecological Services 1/4/07 Date


ARD-AES 1/5/07 Date


DRD 1/2/07 Date